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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/614,996	07/11/2000	Viswanathan Swaminathan	83000.1035C	2771

7590 10/04/2004

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EXAMINER

MANIWANG, JOSEPH R

ART UNIT	PAPER NUMBER
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2144

DATE MAILED: 10/04/2004 11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/614,996

Applicant(s)

SWAMINATHAN ET AL.

Examiner

Joseph R Maniwang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 93-184 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 93-184 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5, 10.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 93-184 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,092,120. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present claims of the pending application are a more broad case of the patented claims which dictate a method and system for delivering byte code. The present claims are directed to delivering byte code comprising extracting from a byte code header information indicative of classes to be loaded, further extracting a first time and a second time, and loading the classes after the first time and before the second time, while the patented claims are directed to delivering byte code comprising extracting from a byte code header information descriptive of additional classes to be loaded, further extracting a first time stamp and a

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second time stamp, and loading the additional classes after the first time stamp and before the second time stamp (compare present claim 93 and patented claims 1 and 23). The differences in the patented claims of "additional" classes and "time stamp" lie within the broad scope of the present claims, and amount to nothing more than an obvious variation of the subject matter of the present claims. Additionally, the present claims provide for the use of time stamps as in the patented claims (see present claim 97). In short, an ordinary artisan supplied with the claims of U.S. Pat. No. 6,092,120 would have been able to construct the obvious variations of the presently claimed invention with nothing more than ordinary skill in the art and the enabling disclosure of U.S. Pat. No. 6,092,120. While the claims are worded differently and the claimed inventions are not identical, the requirement for prevention of unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees is recognized, making this double patenting rejection proper.

2. The use of the trademark "Java" has been noted in this application (see claims 130, 137, 143, and 144). It should be capitalized wherever it appears and be accompanied by the generic terminology.

3. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

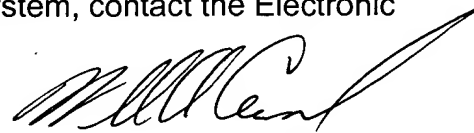
Patki et al. (U.S. Pat. No. 6,181,713) disclosed an architecture for depacketization of data from a data stream.

Mori et al. (U.S. Pat. No. 5,854,873) disclosed a method and system for encoding data streams.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R Maniwang whose telephone number is (703) 305-3179 [Crystal City], (571) 272-3928 [Alexandria]. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A Cuchlinski can be reached on (703)308-3873 [Crystal City], (571) 272-3925 [Alexandria]. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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